

TIPPECANOE COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
June 4, 2012

The Tippecanoe County Commissioners met on Monday, June 4, 2012 at 10:00 a.m. in the Tippecanoe Room in the County Office Building. Commissioners present were: Vice President John L. Knochel, and Commissioner David S. Byers; Commissioner Thomas P. Murtaugh was absent. Also present were: Attorney Dave Luhman, Auditor Chief Deputy Dawn Rivera, and Secretary Tillie Hennigar.

Vice President Knochel called the meeting to order and led the Pledge of Allegiance.

APPROVAL OF MINUTES

- Commissioner Byers moved to approve the minutes of the regular meeting held May 21, 2012, second by Commissioner Knochel; motion carried.

PRESENTATION OF ACCOUNTS PAYABLE VOUCHERS

- Commissioner Byers moved to approve the accounts payable vouchers for May 23, 24, 25, 30, 31, and June 1 and 4, 2012 as submitted without exception, second by Commissioner Knochel; motion carried.

AREA PLAN COMMISSION - Sallie Fahey

Ordinance 2012-20-CM – Rezone Z-2490 Sheryl S. Weist (AW to A)

- Commissioner Byers moved to hear Ordinance 2012-20-CM, Rezone Z-2490, second by Commissioner Knochel.

(quote)

May 17, 2012

Ref. No.: 12-143

Tippecanoe County Commissioners

20 North 3rd Street

Lafayette, IN 47901

CERTIFICATION

RE: Z-2490--SHERYL S. WEIST (AW to A):

Petitioner is requesting rezoning a 1.748 acre portion of an 8.9 acre tract (the part of the tract which lies above the Flood Plain zone) located at 6940 SR 26 East, Perry 21 (SW) 23-3.

Dear Commissioners:



As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on May 16, 2012 the Area Plan Commission of Tippecanoe County voted 10 yes - 0 no on the motion to rezone the subject real estate from AW to A. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Tippecanoe County Commissioners that the proposed rezoning ordinance be APPROVED for the property described in the attachment.

Public Notice has been given that this petition will be heard before the Tippecanoe County Commissioners at their June 4, 2012 regular meeting. Petitioners or their representatives must appear to present their case.

Sincerely,

Sallie Dell Fahey
Executive Director

(unquote)

Area Plan Executive Director Fahey said the petitioner is present. The Area Plan Commission heard and approved the rezone request at their May meeting.

Laura Hyden - 1216 Logan Avenue, Lafayette, spoke on behalf of her mother, the petitioner Sheryl S. Weist. The request is for 1.748 acres, located at 6940 SR 26 East, to be rezoned from AW to A allowing for an addition to be built onto the house.

Commissioner Knochel asked for public input on the rezone request. There were none.

Auditor Chief Deputy Dawn Rivera called the roll.

Byers	Aye
Knochel	Aye

Ordinance 2012-20-CM passed 2-0.

PUBLIC HEARING – Vacation of Unimproved Streets and Alleys in the Town of Monroe
Ordinance 2012-19-CM

Attorney Luhman said the proposed Ordinance would vacate unimproved but platted streets and alleys in the unincorporated town of Monroe in Lauramie Township. The highway department prepared and presented a petition to vacate the unimproved streets and alleys because they are an encumbrance to development. They have never been improved or accepted into the highway road system and should not continue to be shown as platted streets and alleys.

Attorney Luhman read the Ordinance.

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VACATING STREETS AND ALLEYS IN THE UNINCORPORATED TOWN OF MONROE,
LAURAMIE TOWNSHIP, TIPPECANOE COUNTY, INDIANA

WHEREAS, the Board of Commissioners of Tippecanoe County is authorized to vacate public ways pursuant to IC 36-9-2-5; and IC 36-7-3-12.

WHEREAS, the Tippecanoe County Highway Department has requested the Board of Commissioners to vacate a certain portion of Patterson, Lauramie, Darlington and Lauramie Streets and a certain unimproved alleys in the unincorporated town of Monroe, Lauramie Township, Tippecanoe County, Indiana, and files a Petition with the Board of Commissioners in support of such request; and

WHEREAS, proper notice was given to all abutting land owners; and

WHEREAS, a public hearing was held on Monday, June 4, 2012 at 10:00 a.m. on the petition; and

WHEREAS, Patterson, Lauramie, Darlington and Lauramie Streets and the unimproved alleys are grassy areas that have not been used or maintained by the State or County; and

WHEREAS, the Board of Commissioners have determined that the petition is in order and should be granted;

NOW, THEREFORE, BE IT ORDAINED, that all that part of Patterson Street located on the northeast lines of lots five (5), six (6), seven (7) and eight (8) and the east line of lots nine (9) and ten (10) from Columbia Street south to Lauramie Street shall be, and hereby is vacated; and

BE IT FURTHER ORDAINED that all that part of Lauramie Street located on the southeast lines of lots ten (10) and eleven (11) from Patterson Street southwest to U.S. Route 52 shall be, and hereby is vacated; and

BE IT FURTHER ORDAINED that all that part of an unimproved Alley running between and contiguous with lots six (6), seven (7), fourteen (14), and fifteen (15) from Patterson Street southwest to U.S. Route 52 shall be, and hereby is vacated; and

BE IT FURTHER ORDAINED that all that part of an unimproved Alley running between and contiguous with lots eight (8), nine (9), twelve (12), and thirteen (13) from Patterson Street southwest to U.S. Route 52 shall be, and hereby is vacated; and

BE IT FURTHER ORDAINED that all that part of Darlington Street located on the southwest lines of lots thirty nine (39), forty (40), and forty one (41) from the northwest line of lot forty one (41) and running southeast to the northwest edge of Columbia Street shall be, and hereby is vacated; and

BE IT FURTHER ORDAINED that all that part of Darlington Street located on the southwest lines of lots thirty seven (37), and thirty eight (38) from the southeast edge of Columbia Street southeast to the northwest line of lot thirty six (36) shall be, and hereby is vacated; and

BE IT FURTHER ORDAINED that all that part of an unimproved Alley running between and contiguous with lots twenty eight (28), twenty nine (29), thirty six (36), and thirty seven (37) from Darlington Street northeast to U.S. Route 52 shall be, and hereby is vacated; and

BE IT FURTHER ORDAINED that all that part of Lauramie Street located on the southeast lines of lots thirty two (32) and thirty three (33) from U.S. Route 52 southwest to Darlington Street shall be, and hereby is vacated.

Provided, however, that no part of the right-of-way of Columbia Street or U.S. Highway 52 shall be vacated by this ordinance.

This Ordinance shall be in full force and effect immediately upon its passage and signing.

Presented to the Board of Commissioners of Tippecanoe County, Indiana, and read for the first time, and approved on first reading this 4th day of June, 2012, by the following vote:

Attorney Luhman said signature lines for the Commissioners and the Auditor complete the ordinance. He noted that none of the rights-of-way are owned by the County. They have been platted as streets, dedicated to the public, and are not incorporated into the County highway system. Adoption of the ordinance would remove the encumbrance of the platted right-of-way, or easement from the underlying real estate.

Highway Director Kuhl said this is part of a clean-up to be completed throughout the County. Other areas such as Americus and Granville have similar layouts of their streets and alleys. Vacating these streets and alleys makes it more convenient from a legal aspect when property ownership changes.

Commissioner Knochel asked for public input and indicated there would be a three minute limit.

Robert L. Dearth Sr. - 9008 US Hwy. 52 S., Lafayette – Mr. Dearth presented copies of a prepared letter to the Commissioners and then summarized the information. In 2004, when moving in, he cut down a lot of trees and his neighbor, the Skees, advised him to not hit their septic cleanout. He had a survey completed and discovered the septic cleanout was 12' onto the Dearth property. After the survey, the Skees removed the cap which was not attached to anything. When the roads and alleys were vacated, he paid an attorney for legal research. The attorney advised that a person had to petition the County in order to vacate and that it is illegal for the County to vacate on their own. There is a sinkhole on Darlington Street which the Skees say they fill every year but it washes away. The hole is still open and he presented a picture to the Commissioners. His grandson uses Darlington Street to go to the Frazee property and he opposes vacating Darlington Street.

Pamela Frazee – 9040 US Hwy. 52 S., Lafayette – Ms. Frazee said part of her property, lots 27, 28, 37, and 38, is in the Monroe plat and part is the field behind those lots which is not in the Monroe plat. She is contesting Darlington Street which runs along lots 37 through 44 where her fence line is located. She referred to Columbia Street and said there is a garage located there belonging to the neighbor south of her

property and it wasn't necessary to give her half of the alleyway. She presented a survey to Attorney Luhman regarding the Columbia Street alley. There is a highway surface drainage where erosion needs to be controlled to protect the integrity of her fence line which runs through lots 41 and 42. Two barns and 2400 feet of fencing have been installed for livestock. A perimeter fence has been installed on the property line and also an inside pasture fence. She provided a video of the erosion to the Commissioners. In summary, she needs to be able to maintain the fence and control the erosion.

Attorney Luhman clarified that there is no transfer of ownership due to vacation. The roads are unimproved and the County is removing the easement for the right-of-way. The County does not have the power to transfer ownership of the underlying property to any of the parties. Whoever owns the land now would own the land after the street is vacated. In response to a comment by Ms. Frazee regarding property taxes, Attorney Luhman said the assessment is a different issue. The value of the property is assessed differently if encumbered by an easement for right-of-way. Vacating an easement doesn't change ownership of the underlying real estate. None of the property belongs to the County; there is only a dedication or a plat of a public right-of-way that has never been constructed. The *presumption* is that ownership goes to the center line of the adjacent roadway; it is not absolute. Vacating where the road is platted doesn't change the ownership; it only removes the encumbrance of the easement for a roadway.

Wanda Brown – 9132 US Hwy. 52 S., Lafayette – a quarter of her property is in Monroe. She said Pamela Frazee has caused nothing but chaos since moving in. Ms. Frazee set railroad ties inside of the pins and refuses to move them. She has talked to several people in the County and nothing gets done. Her request is to have the railroad ties moved outside of the pins.

Doug Skees – 9024 US Hwy. 52 S., Lafayette – His property is located between Pamela Frazee and Robert Dearth. He asked to see the picture of the hole that was presented and said the hole was put in by the health department when the septic system was installed. He was never approached by Mr. Dearth with the concerns and issues presented earlier. He agreed with Wanda Brown that Ms. Frazee has caused nothing but chaos. He measured the fence last night and it has been moved 6 feet from where it was located when he moved into the area. In reference to Columbia Street, when his sons ride their mini bikes there, Ms. Frazee calls the Sheriff.

Commissioner Knochel asked Attorney Luhman to read the four areas affecting objection to vacation of streets. Attorney Luhman said Indiana Code 36-7-3-13 states the objection to a vacation can be raised on one or more of the following items: 1) the vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located; 2) the vacation would make access to the lands of the agreed person by means of a public way difficult or inconvenient; 3) the vacation would hinder the public's access to a church, school, or public building place; and 4) the vacation would hinder the use of a public way by the neighborhood in which it is located.

Commissioner Byers asked why Columbia Street is not being vacated. Director Kuhl said Columbia Street is being used by two different homeowners for access to their property and the driveway is located more on the north side than the south side.

Commissioner Byers and Attorney Luhman agreed that by vacating streets, an obstacle and future obstacles are being eliminating.

Auditor Chief Deputy Rivera called the roll.

Byers	Aye
Knochel	Aye

Ordinance 2012-19-CM passed 2-0 on first reading.

Commissioner Byers moved to suspend the rules and hear Ordinance 2012-19-CM on the second reading, second by Commissioner Knochel; motion carried.

Commissioner Byers moved to hear Ordinance 2012-19-CM on second reading.

Auditor Deputy Rivera called the roll.

Byers	Aye
Knochel	Aye

Ordinance 2012-19-CM passed 2-0 on second and final reading.

HIGHWAY – Opal Kuhl

Klondike Road Project – Amendment No. 2 for Design Services Agreement from Strand Associates

Director Kuhl said the amendment is for Klondike Road. The County does not have the funding for the construction so changes are being made to the design contract. By making the changes, it enables the project to be a Federal Aid transportation improvement project eligible for federal funding. The design fees are increased by \$35,000, drainage fees are increased by \$36,000, and the environmental increase is \$70,000. The estimated construction cost is \$4.5 million. The design change will entitle the County to receive 80% of the \$4.5 million. The construction is on the portion of Klondike Road between US 52 and Lindberg Road which will be four lanes and have a trail.

- Commissioner Byers moved to approve the Klondike Road project amendment as presented, second by Commissioner Knochel; motion carried.

Lindberg Road Project – Amendment No. 2 for Design Services Agreement from Strand Associates

Director Kuhl said this amendment is the same as the previous one except this is Lindberg Road from Klondike to where the new 231 project will end. The additional design fees are \$33,000, additional drainage fees of \$22,000, and increased environmental fees of \$55,000. The project construction cost is estimated at \$2 million. The design change will entitle the County to receive 80% of the \$2 million.

- Commissioner Byers moved to approve the Lindberg Road project amendment as presented, second by Commissioner Knochel; motion carried.

Supplemental Agreement #2 for Engineer Services to Replace Small Structure Wea 304 from Butler, Fairman, and Seufert, Inc.

Director Kuhl said the Supplemental Agreement is for engineer services for Wea 304, which is a culvert. In looking at the design, it was determined the culvert needs to become a bridge. The culvert will become bridge #1040. The design is finished, however, right-of way from three parcels need to be acquired at a cost of \$10,500.

- Commissioner Byers moved to approve the supplemental agreement #2 for bridge #1040, second by Commissioner Knochel; motion carried.

Supplemental Agreement #4 for 2009 Tippecanoe County Culvert Replacement from Butler, Fairman, and Seufert, Inc.

Director Kuhl said the Supplemental Agreement is for engineer services for a culvert on 450 North, which needs replaced. The contract is from 2009 and has two culverts, which were never replaced due to lack of funds. \$3,000 is for additional design services for culvert sizing.

- Commissioner Byers moved to approve the supplemental agreement #4 as presented, second by Commissioner Knochel; motion carried.

Continuation Certificate from Indiana Gas Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc.

Director Kuhl presented a Continuation Certificate from Indiana Gas Company, d/b/a Vectren for \$5,000 allowing them to continue work in the right-of-way.

- Commissioner Byers moved to approve the continuation certificate as presented, second by Commissioner Knochel; motion carried.

Continuation Certificate from Mulberry Cooperative Telephone Co., Inc.

Director Kuhl presented a Continuation Certificate from Mulberry Cooperative Telephone Company in the amount of \$5,000 to continue work in the right-of-way.

- Commissioner Byers moved to approve the continuation certificate as presented, second by Commissioner Knochel; motion carried.

GRANTS – Laurie Wilson

Grant Facilitator Wilson requested permission to accept a grant in the amount of \$10,000 from the Indiana Department of Homeland Security. The grant is for TEMA and the Sheriff Bomb Squad equipment purchases. Most of the purchases will be personal protection equipment to protect Bomb Squad members when working on devices.

- Commissioner Byers moved to accept the grant from Homeland Security as presented, second by Commissioner Knochel; motion carried.

Grant Facilitator Wilson requested permission to apply for a grant in the amount of \$25,000 from the Indiana Supreme Court for the IV-D Magistrate. The grant will be used to continue the family court project, providing mediation services.

- Commissioner Byers moved to allow permission to apply for the grant as presented, second by Commissioner Knochel; motion carried.

MANAGEMENT INFORMATION TECHNOLOGY SERVICES/AUDITOR – Dave Sturgeon
Shared Position – Administrative Assistant

Executive Director Sturgeon said this is a shared position between the MITS department and the Auditor's department. Many of the responsibilities will be the same between the two departments. Both positions were initially full-time but then converted to part-time. It is difficult to keep a part-time person. Several months of training are invested, and then the person leaves and the cycle starts again. With a combined full-time position, hopefully the person would stay once trained. When the Auditor's office doesn't have enough work, the MITS department can provide work and vice versa. There will be benefits where there were not for the part-time positions so the majority of the part-time budget will be applied to the new position if approved. Where the person will be located and the amount of hours to be worked in each department is yet to be worked out. The majority of the time will be in the Auditor's office but there is an available desk in the MITS department.

Human Resources Coordinator Shirley Mennen said when there was a budget crunch, both departments offered to give up their full-time positions. They have tried for some time to keep the positions filled but there has been a considerable amount of turnover. The majority of the people coming into the position with the proper skills are looking for full-time employment. Instead of both departments asking for their full-time position back, the shared position will eliminate one set of benefits. A lot of the job description crosses over between the two departments. The classification came back as a COMOT 3 level, which is the same as it was before.

Commissioner Byers said the plus was that we have one position shared between two departments, which Council has talked about for years.

- Commissioner Byers moved to approve the shared Administrative Assistant position as presented, pending Council's approval, second by Commissioner Knochel; motion carried.

Public Records Policy

Director Sturgeon said the County does not have a policy in place for a public record request. The policy was put together to establish some guidelines on what the public can expect as far as turn-around time and information they can receive. The information is not in the policy itself but refers them to the state code where the information is more detailed. The MITS Board and Attorney Luhman have reviewed the policy.

- Commissioner Byers moved to approve the Public Records Policy as presented, second by Commissioner Knochel; motion carried.

AUDITOR – Dawn Rivera

SRI Consulting Services Agreement

Auditor Chief Deputy Rivera said the agreement deals with the Homestead verification process, commonly known as the “pink form”. It was put into place by ATA 1344-2009 to detect and deter homestead fraud. For the past two years, the Auditor’s office has worked with the verification process and billed fraudulent claims for deductions. The process allows to bill for back taxes interest and a civil penalty of 10%. A database was created in the Auditor’s office and uncovered approximately 100 properties with fraudulent deductions, mostly by owner’s admission. The process of comparing the properties in the Tippecanoe County database is extensive; adding the comparison of the entire state is next to impossible. Contracting with SRI to investigate and identify possible fraud is the best option. SRI will mail notices and bills and provide a dedicated telephone number to answer questions. SRI will represent the Auditor’s Office at the Property Tax Assessment Board of Appeals (PTABOA) if a property owner appeals a wrongful deduction removal. The cost is 20% of the civil penalty collected. The civil penalty is 10% of the taxes. Of the 10%, 1% goes to the Department of Local Government Finance (DLGF), 99% goes to the Auditor’s office; and SRI will take their percentage from the 99%.

Glen Luedtke, from SRI Consulting, said they are working with 32 counties in the program. Some have generated over \$1 million, others have generated over \$300,000. The scenario of people not paying taxes causes a burden on the people who do because their taxes are inflated to offset the fraudulent deductions. With the SRI database, access is available to cross reference between counties, work with the DLGF, and other states. First, a “soft” letter is sent asking the property owner to come forward and show verification of their only homestead within 30 days. If the proof is there, the issue is dropped. If they don’t come forward, a “demand” notice is sent which shows the amount of taxes plus penalties. They have 30 days to respond to the second letter. The objective is to get all done before 2013 taxes are billed. The DLGF and SRI recommends going back three years.

- Commissioner Byers moved to approve the SRI Consulting Services Agreement, second by Commissioner Knochel; motion carried.

CLERK – Christa Coffey

Professional Services Agreement for Collections

Clerk Coffey asked for approval of the contract with Capital Recovery Systems, Inc. The Clerk's office has used them for a few years but she could not find a contract in the file. They do a great job with over a 30% collection rate.

- Commissioner Byers moved to approve the contract as presented, second by Commissioner Knochel; motion carried.

Clerk Coffey said in coordination with the courts, the 2010 submission to unclaimed money has been reviewed and a little more than \$26,000 will come back to the County, which was sent incorrectly.

UNFINISHED/NEW BUSINESS – none

REPORTS ON FILE

The following reports will be on file in the Commissioner's office:

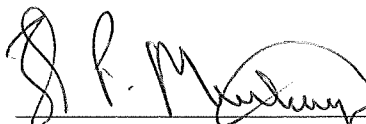
Public Library – June
 Building Commissioner – May
 Mail and Duplicating – May
 Parks and Recreation Board – June
 Treasurer – April
 Clerk of the Circuit Court

PUBLIC COMMENT

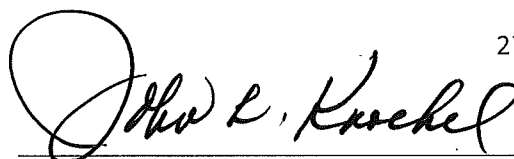
Wanda Brown – 9132 US 52 S, Lafayette – Ms. Brown asked if anyone will come to Monroe and place stakes as it is a big issue. Highway Director Kuhl said neither the highway department nor the survey department does surveys for private citizens for property lines. The property owner needs to get their own survey. Ms. Brown commented she could not maintain her fence line because her neighbor doesn't allow it. Commissioner Byers suggested Ms. Brown may need to get her own survey.

- Commissioner Byers moved to adjourn.

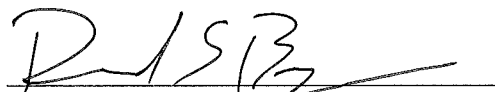
BOARD OF COMMISSIONERS OF
 THE COUNTY OF TIPPECANOE



Thomas P. Murtaugh, President

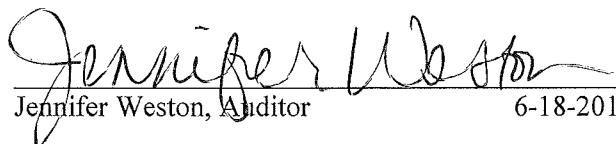


John L. Knochel, Vice President



David S. Byers, Member

ATTEST:



Jennifer Weston, Auditor

6-18-2012

